IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR.

S.B. Civil First Appeal No.49/2007

Addl. Chief Engineer, PWD, Zone Kota and Others
Vs.
Firm Shri Ravi Jain

04.04.2007

Hon'ble Dr. Vineet Kothari, J.

Mr. D.D. Sharma for the appellants.
Mr. S.K. Jain for the respondent.

Heard learned counsel for the parties.

This appeal is directed against the judgment and decree dated 18.11.2006 in Civil Suit No.53/2005 passed by the Court of learned Additional District & Sessions Judge (Fast Track), Jhalawar.

The plaintiff-contractor, Firm Shri Ravi Jain, undertook a contract for the defendant, Public Works Department, Kota, for construction of a community health centre at Kasba Khanpar and the work was executed between the period from 10.04.1988 to 25.10.1988 to the satisfaction of the authorities of the said department. When the payment against

the said contract was not made, the plaintiff had to file a suit for recovery of the said amount under the said contract.

After considering the evidence, which came before the trial court, the trial court framed as many as nine issues in the suit on the basis of the pleadings of the parties and decided all the issues in favour of the plaintiff. The trial court found that there was delay in payment of the amount against the work executed by the plaintiff-contractor and also refund of security deposit between the period from 1.10.1999 to 10.09.2004 and thus, on the deduction from running bills to the extent of Rs.1,46,417/-. The trial court awarded interest @ 18% per annum from the period 1.10.1999 to 10.9.2004 and thereafter, interest @ 8% per annum till the payment.

Being aggrieved by the said decree, the State came up in appeal. Learned Deputy Government Advocate urged that there is no dispute about the refund of the amount of deduction from the running bills as well as security deposit. However, he submits that the interest @ 18% per annum awarded by the trial court is excessive as during this period banking rates had fallen

down substantially, therefore, more than 6% interest should not have been awarded by the trial court.

On the other hand, Mr. Jain, the learned counsel for the respondent, opposes statement of the learned counsel for the appellant and submits that the payment of interest @ 18% per annum cannot be said to be excessive and he also relied upon the following judgments in support of his submission; **Sovintorg (India) Ltd. Vs. State Bank of India, New Delhi (1999) 6 SCC 406**, in this case the Hon'ble Supreme Court held that award of 12% interest by the National Commission under Consumer Protection Act was inadequate and the Hon'ble Supreme Court awarded interest @ 15%. Similarly in an arbitration matter in **Municipal Committee, Patiala Vs. Krishan Kumar Bansal (2002 (Suppl.) Arb. LR 320 (P&H)**, the Punjab & Haryana High Court allowed the interest @ 18% per annum for a contract given in the year 1985. In **Tarun Traders & Partnership Firm Vs. Auchtel Products Ltd. (2001 (1) Arb. LR 105 (Bombay)**, dealing with the provisions of Interest Act, 1978 in a matter relating to recovery of price of goods, the learned Single Judge of Bombay High Court awarded

interest @ 18% per annum.

Having given my thoughtful consideration to the facts and circumstances of the present case where the work in question was executed by the contractor and there is admittedly a delay in refund of the amount wrongly deducted from the running bills and security deposit for the period of 1999 to 2004, this Court is of the opinion that the award of interest @ 12% per annum would meet the ends of justice. Though the interest is nothing but a compensation for the money wrongly detained by the defendant and it is the opportunity cost of the money, which would have been available to the plaintiff-contractor for his business purpose and, therefore, the interest @ 18% per annum also cannot be said to be excessive as contended by the learned Deputy Government Advocate, however, looking to the fact that it was the work executed for a Government Department and public revenue is also involved in the matter looking to the prevalent bank interest rates, it is considered expedient and fair that interest @ 12% per annum in such cases in view of the period for which it is concerned namely between 1999 to 2004, would be just and proper. In view of this, the appeal is disposed

of with the modification that the interest of 18% per annum as awarded by the trial court shall stand reduced to 12% per annum for the aforesaid period between 1999 to 2004, however, for the latter period, the interest @ 8% per annum as awarded by the trial court is not required to be interfered with.

The appeal is disposed of with no order as to costs. The payment of said arrears with interest as directed above shall be made within a period of three months from today. If the payment is not made within a period of three months from today as directed above, the reduction in interest rate granted for the aforesaid period will not be operative and the interest as awarded by the trial court shall be payable.

The appeal is partly allowed. No order as to costs.

[**Dr. Vineet Kothari**],**J.**

S.S.
Jr.P.A.